

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

EVERGREEN SCHOOL DISTRICT.

OAH CASE NO. 2013080011

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING  
MEDIATION, PREHEARING  
CONFERENCE, AND HEARING

On December 23, 2013, the parties filed a joint request with the Office of Administrative Hearings (OAH) to continue the dates in this matter based upon the need to complete an independent education evaluation (IEE). This is the parties' third continuance request.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. OAH typically disfavors multiple continuance requests to ensure that cases are completed in a timely manner. However, the parties have established good cause for a continuance because the agreed upon entity for the IEE, which may resolve this matter without hearing, is not available until January 2014, and the hearing is set to commence of January 21, 2014. Therefore, this matter will be set as follows, and no further continuances shall be granted:

Mediation:	February 12, 2014, at 9:30 AM
Prehearing Conference:	February 28, 2014, at 10:00 AM
Due Process Hearing:	March 11, 2014, at 9:30 AM, March 12 and 13, 2014 at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: December 24, 2013

/s/

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PETER PAUL CASTILLO  
Administrative Law Judge  
Office of Administrative Hearings